HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Official Languages

LANG • NUMBER 107 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Monday, June 11, 2018

Chair

The Honourable Denis Paradis

Standing Committee on Official Languages

Monday, June 11, 2018

● (1200)

[*Translation*]

The Chair (Hon. Denis Paradis (Brome—M.. ...voi, Lib.)): Ladies and gentlemen, we're going to start our meeting.

Pursuant to Standing Order 108(3), we are continuing our study on issues related to French-language training in the field of nursing in Canada.

This morning, we are pleased to have Katherine d'Entremont, Commissioner of Official Languages for New Brunswick, and Marc Wagg, Legal Counsel and Lead Investigator at the Office of the Commissioner of Official Languages for New Brunswick. Welcome.

You will have 10 minutes or so to make your presentation. Then, as usual, we will proceed with the period of questions and comments by committee members.

Go ahead, please, Ms. d'Entremont.

Ms. Katherine d'Entremont (Commissioner of Official Languages for New Brunswick, Office of the Commissioner of Official Languages for New Brunswick): Mr. Chair, ladies and gentlemen members of the committee. I would like to begin by thanking you for inviting us to present the findings of our investigation report on the Nurses Association of New Brunswick regarding the allegations of deficiency in the services and the treatment of members of the public wishing to proceed in French.

It is a real honour and privilege for me to be here with you today and to testify as part of your important study on issues relating to French-language training in the field of nursing in Canada.

The Commissioner of Official Languages for New Brunswick is an independent officer of the Legislative Assembly. My role is to investigate, present reports, and make recommendations respecting compliance with the Official Languages Act and to promote the advancement of the two official languages in the province.

First, to provide you with some context, I will discuss the linguistic obligations of the associations that regulate a profession in New Brunswick.

The Nurses Association of New Brunswick is one of over 40 associations that regulate a profession in New Brunswick. Professional associations exercise the fundamental role of protecting the public by regulating and monitoring professional practice.

Professional associations have been required to provide their services in both official languages since July 1, 2016. Pursuant to the OLA, members of associations and the public have the right to communicate with professional associations and receive services in the official language of their choice. Moreover, the OLA stipulates that people cannot be placed at a disadvantage because they have chosen one official language rather than the other to fulfil a requirement of a professional association, such as writing an exam.

The linguistic obligations of professional associations are the result of changes made to the OLA by the members of the Legislative Assembly in 2013 and 2015. Associations therefore had a three-year transitional period to prepare for their new linguistic obligations.

The Office of the Commissioner has developed a factsheet, outlining the linguistic obligations of professional associations. It's also available on our website.

[*English*]

Now I'll tell you a little bit about the complaints we received.

On July 12, 2016, the complainants contacted our office in order to submit a complaint against the Nurses Association of New Brunswick. The complainants alleged that they were placed at a disadvantage when they chose to use French to satisfy the requirements to be able to work in the nursing profession in New Brunswick.

In their complaint, they alleged that the association failed to fulfill its linguistic obligations by placing at a disadvantage people who chose to exercise their right to use French in response to the requirements imposed by the professional association. In particular, they mentioned problems with translation, as well as the adaptation from the English version towards the French version of the registration exam, the National Council Licensure Examination for Registered Nurses, commonly referred to as the NCLEX-RN. They also complained of a lack of French language resources to prepare for this exam.

● (1205)

[*Translation*]

The two complaints were in regard to subsection 41.1(3) of the OLA, which states the following: "No person shall be placed at a disadvantage by reason of exercising his or her right to choose an official language in which to fulfil requirements imposed by a professional association."

Our office broke these complaints into two separate streams: (1) the availability of resources for the preparation of the NCLEX-RN exam and (2) the quality of the adaptation and translation of the NCLEX-RN exam from the original English version to the French version.

The Office of the Commissioner concluded that the complaints were founded and that the Nurses Association of New Brunswick had violated subsection 41.1(3) of the Official Languages Act. In New Brunswick, English and French, as well as the two official linguistic communities, have equal status, rights and privileges.

Under this constitutional principle of equality, all organizations subject to the Official Languages Act are obliged to provide services of equal quality in both languages. In this context, one must recall that the Supreme Court of Canada has stated that providing equal quality of service may require taking into account the particular needs of a minority linguistic community and the adaptation of a program or a service to its reality.

[*English*]

We must also be reminded that each official linguistic community in New Brunswick has the right to distinct educational institutions in order to preserve and promote each community. In New Brunswick this duality means that in fact each community develops its own post-secondary training programs in terms of its needs and priorities.

In the context of its activities, the Nurses Association of New Brunswick has a legal obligation to act in a way that respects the constitutional principle of equality inherent in the language rights recognized in the Official Languages Act.

Following our investigation, the Office of the Commissioner concluded that the association has not respected this principle of equality, because it adopted a licensing exam that places members of the francophone community at a disadvantage.

[*Translation*]

There is indeed a significant gap in the exam preparation resources available to one linguistic community compared to the other. Whereas there is only one French-language question bank tool, with no simulation exam and a limited number of practice questions, there is a vast array of high-quality English-language exam simulations that are commercially available.

Therefore, francophone candidates are not on a level playing field compared to their anglophone counterparts. It is acknowledged that the association does not exercise control over these resources nor does it endorse them. However, the NCLEX-RN does not exist in a vacuum and the Office of the Commissioner finds that the association cannot ignore the existence of these resources as well as their availability. From the time the association made the decision to use the NCLEX-RN exam, francophone and anglophone candidates have not been on an equal footing.

An independent review of the French version of the exam showed that, overall, exam questions were well translated. However, flaws were found with some questions, with the reviewer stating that the likely cause of these deficiencies was a manipulation of the exam questions by individuals who were not qualified translators after the translation by professionals had taken place.

● (1210)

[*English*]

It is worth noting that the association had a transition period of three years to prepare for its obligations under the Official Languages Act, so although professional associations did not fall under the Official Languages Act in 2015 when the NCLEX-RN was introduced in New Brunswick, the association knew that obligations were forthcoming. When the association committed to implementing the NCLEX-RN as the new entry-to-practice exam, the association would have been aware of the many English-only exam preparation products that were available.

Moreover, the Office of the Commissioner notes that the adoption of this exam has created a situation that encourages francophone students to use English-language resources to prepare for the association's exam, which negatively affects the vitality of the French language.

[*Translation*]

At the end of the investigation, I made the following recommendations:

First,

> that the Association take the necessary actions so that requirements to enter the nursing profession in New Brunswick fully respect subsection 41.1(3) of the Official Languages Act of New Brunswick, or OLA;

Second,

> that, regardless of the entry to practice exam chosen by the association, the translation of the exam and any subsequent revision be done by a certified translator;

Third,

> that the Association report to the Office of the Commissioner on the measures taken to respect subsection 41.1(3) of the OLA no later than September 4, 2018.

Thank you for your interest in this matter. My colleague Mr. Wagg and I will be pleased to answer your questions.

The Chair: Thank you very much, Ms. d'Entremont.

We will immediately move on to the period of questions and comments.

Go ahead, Mr. Clarke.

Mr. Alupa Clarke (Beauport—Limoilou, CPC): Thank you, Mr. Chair.

I like the fact that we started the meeting at noon. We should start at this time every time.

Thank you for being here with us, Ms. d'Entremont. Thanks as well for the work you've done in recent years. I wish you great success in whatever you undertake.

First, I would like to ask you what you expect from the committee on this issue.

What do you think we could do apart from preparing reports?

What do you think we can do on this specific issue, which mainly concerns New Brunswick, but also other provinces?

Ms. Katherine d'Entremont: In the wake of our investigation report, some people didn't really understand that it was not solely about the quality of the translation of the exam, but also about the material and resources necessary to prepare for the exam. We understood from the media reports that it was not necessarily clear. That's why we're pleased to be here and to talk to you about it. Even if the exam were perfectly translated, there would also be the reality. Incidentally, if you want to read our investigation report, you'll find the full text of it, in both official languages, on our website.

As members of this committee, you must understand that students in New Brunswick have rights under the Official Languages Act. Our office is the only provincial office of the Commissioner of Official languages of Canada and is thus the only one with authority to conduct an investigation of this kind.

Mr. Alupa Clarke: Can you exercise coercive powers?

Ms. Katherine d'Entremont: Like the office of the federal commissioner, we are empowered to make recommendations.

● (1215)

Mr. Alupa Clarke: I see.

Ms. Katherine d'Entremont: My objective today is to inform you of our findings. Even though New Brunswick is the only province where students may file complaints with a provincial commissioner's office, the problem here arises in all provinces where nursing students elect to take their training in French. That's why this issue is of interest to other organizations and people like you.

Mr. Alupa Clarke: My impression, based on what I've seen in the media, is that the situation has evolved somewhat since our last meeting on this subject with representatives of associations and individuals.

Exactly where do we stand at this time?

Has the nurses association in your province decided to backtrack?

I've heard some things, but I don't really know where we stand.

Ms. Katherine d'Entremont: Institutions are required under the Official Languages Act to acknowledge receipt of our reports. The deadline we gave them was last Friday. However, we've received nothing yet. We haven't received any official communication from the Nurses Association of New Brunswick. I don't know whether it told other people what it was going to do with our report, but we haven't been informed.

Mr. Alupa Clarke: If the situation were resolved and new exams prepared, do you think that students who didn't pass the exam used under the other system would have to retake their exam free of charge?

Ms. Katherine d'Entremont: That's not a question we're going to consider.

Mr. Alupa Clarke: Those persons would be subjected to a certain degree of discrimination.

Ms. Katherine d'Entremont: Would there be other remedies?

Will people try to advance their case by other means?

That's possible. We aren't aware of it, and that issue is not our responsibility. We prepared a report in which we concluded that the Official Languages Act of New Brunswick had been violated.

Mr. Alupa Clarke: That's serious, isn't it?

Ms. Katherine d'Entremont: It's quite a serious finding, yes.

Mr. Alupa Clarke: In New Brunswick, the premier is responsible for the administration of the Official Languages Act, isn't he?

He delegates that responsibility to a deputy minister. Is that correct?

Ms. Katherine d'Entremont: That's correct.

Mr. Alupa Clarke: That's normal, but how aware is Mr. Gallant of the situation? What has he done so far? Has he taken action or responded?

Ms. Katherine d'Entremont: He hasn't directly informed the commissioner's office of his actions.

Mrs. Sylvie Boucher (Beauport—Côte-de-Beaupré—Île d'Orléans—Charlevoix, CPC): He has started his election campaign.

Ms. Katherine d'Entremont: Consequently, I don't know whether he intends to take action in this matter.

Mr. Alupa Clarke: I turn the floor over to you, Ms. Boucher.

Mrs. Sylvie Boucher: Ms. d'Entremont, earlier you said that students may choose to take courses in English or in French, but what we can read between the lines is that they're essentially encouraged to do their studies in English because it will be easier for them to take the exam in that language.

You also said that certified revisers had reviewed the exam that other persons had translated without subsequently submitting it to revisers to determine whether everything was in order. That's a bit of public manipulation. You say it was revised twice, but the final version was ultimately not the first version, which had been adequately revised. Is that correct?

Ms. Katherine d'Entremont: The reviser who revised the exam for us during our investigation found that that was what had happened. Complaints were filed with the commissioner's office to that effect. One might suppose that improvements were made because it took some time.

Mr. Wagg can tell you more about that, but the exam is taken on a computer, and the experience varies from person to person. We couldn't exactly reproduce the experience of the two individuals who had filed complaints with the commissioner's office. However, we found that the translation of the exam was not 100% accurate, although that wasn't the biggest problem.

The biggest problem was the absence of material in French for students wishing to prepare for the exam. Even if the exam was perfectly translated into French as of next week, the situation would still not be in compliance with the Official Languages Act of New Brunswick because students would not have had access to the same resources in English and French.

The Chair: Thank you very much.

Please go ahead, Mr. Arseneault.

Mr. René Arseneault (Madawaska—Restigouche, Lib.): Thank you very much, Mr. Chair.

Welcome, Ms. d'Entremont and Mr. Wagg, and thank you for accepting our invitation. We're fortunate to have your expertise. You've shed considerable light on our concerns. We've heard many things about this matter and heard from many witnesses on the subject.

I don't want to go into the details of your report. I understand the problem: it's, first, the fact that there has been manipulation, but that's less significant than the lack of material in French for students wishing to prepare for the exam.

I'm a bit like St. Thomas here. I refer you, more precisely, to the first question you asked in your investigation. In question 1, you ask this:

> In what ways did the NANB ensure that the French version of the exam:
>
> b. conformed...
>
> d. was adapted to the terminology of the field in the New Brunswick context?

Here's why I'm asking you this question.

When I studied law, we compared identical fields of law in France and Canada. I'll never forget it. I read a text in French, and, to me, it was Chinese. And yet it concerned a similar situation. The terminology didn't take differences into account. A text may mean the same thing in a specific context in Paris, but the wording will be different if you come from French Canada.

Is it possible this aspect had an impact on the exam?

● (1220)

Mr. Marc Wagg (Legal Counsel and Lead Investigator, Office of the Commissioner of Official Languages for New Brunswick): From what I understood, many of the translators at the American translation company that was hired were Canadian. The person who did the revision for us was a translator specializing in the health field in New Brunswick. He said the quality of the translation was quite good.

Mr. René Arseneault: I'm very reassured by that.

That leads me to my next question, which is much broader.

I'm looking over your three recommendations. The Nurses Association of New Brunswick can easily comply with the second and third ones. As for the first, I'm going to ask you a question in two parts, one in the context of New Brunswick and the other in the context of French-speaking Canada outside Quebec.

The first recommendation is drafted as follows:

> "that the Association take the necessary actions so that requirements to enter the nursing profession in New Brunswick fully respect subsection 41.1(3)..."

In other words, you recommend that there be genuine equality between the two languages.

You say in your report that the biggest problem is the lack of preparatory material in French. In view of that fact, how could the association comply with your first recommendation when it has no control over what is published in English on the subject here and there around the globe?

Ms. Katherine d'Entremont: I think the association will have to find that the exam in question doesn't meet the requirements of the act because the resources available in the market are in English. Furthermore, as is the case of the exams of many other professions in New Brunswick, such as the bar exam, the exam is prepared in New Brunswick. The professional association controls access to available resources and endorses those resources. It was in adopting this exam, which, as we stated in the report, does not exist in a vacuum, that the association went wrong.

There is a full range of resources on the commercial market. They are mainly American resources, but I think it's out of the question to expect the New Brunswick association to be able to reproduce those resources in French.

Mr. René Arseneault: It's evolving; the situation, especially, is evolving, and material is published every six months or every year.

Ms. Katherine d'Entremont: Yes.

Mr. René Arseneault: French translation can't keep up in that case.

Isn't the purpose of your recommendation 1 to make the association choose between two solutions? The first would be to continue in that same way—hoping eventually for help from the federal and provincial governments—and to translate the foreign preparatory material while hoping to be able to do so by following developments in the field. The second would be to drop that exam and prepare one that is specific to New Brunswick.

Isn't the idea to force the association to make that difficult decision?

Ms. Katherine d'Entremont: It will have to make a decision.

That's why we didn't make a specific recommendation on the direction that should be taken. The New Brunswick act states that no person shall be placed at a disadvantage by reason of the choice of language. It's therefore up to the association to make the necessary decision. If it can't reproduce all the teaching material that's available on the market in English, it'll have to find the funds. I don't know whether there would be enough money to do that, regardless of which level of government it comes from. This isn't a magic and easy solution that can be implemented with a few thousand dollars.

Consequently, I think that, if you go by the Official Languages Act, the exam the association selects will have to—

● (1225)

Mr. René Arseneault: —give everyone an equal chance.

Ms. Katherine d'Entremont: That's correct: everyone must be given an equal chance.

That's what the act states. So it will be up to the association to make the decisions and to see what it can do.

Mr. René Arseneault: Yes, I'm interrupting you because I only have six minutes.

I know there is a lawsuit under way against the association. That's always the easy way to say we aren't talking to anyone anymore. However, has the association indicated any openness on this recommendation 1?

Ms. Katherine d'Entremont: Unfortunately, we haven't received any information from the association since our investigation report was released a month ago.

Mr. René Arseneault: I have another question.

The Chair: We have to change speakers.

Mr. René Arseneault: My colleague had a minute more than me.

The Chair: She was entitled to an additional question.

Then go ahead.

Mr. René Arseneault: Here's the last question.

Have any members of the association, or of the nursing teaching body, in New Brunswick who speak either official language reacted to your report? Have they notified you of any concerns whatever?

Ms. Katherine d'Entremont: We spoke with certain individuals after issuing the report, but not with association representatives.

Mr. René Arseneault: Thank you.

The Chair: Thank you very much.

You have the floor, Mr. Choquette.

Mr. François Choquette (Drummond, NDP): Thank you, Mr. Chair.

Thank you very much for being here today, Commissioner and Mr. Wagg. It's really a pleasure and an honour to have you here.

The issue of nurses and access to health care in French across Canada is extremely important. As Ms. Boucher has often said, when you're sick, you're sick in your own language. Ms. Boucher is with us, by the way, and she won't be annoyed if I quote her.

I know that several millions of dollars have been invested in this area. That's good. I think the federal government has invested nearly $90 million in French-language training under the last action plans in recent years.

If memory serves me, there is another $22 million for access to health care in French under the Minister of Canadian Heritage's current action plan. So the federal government is investing a lot of money in access to health care in French, but that ultimately begins with our students, who are learning, of course, so they can then provide service in French.

What happened? Why was there such a disruption when the previous test was switched out for the NCLEX-RN exam? What happened when the test was replaced with an American test?

Ms. Katherine d'Entremont: I can't answer that.

We conducted an investigation to determine whether New Brunswickers who speak French were being put at a disadvantage in their efforts to meet the requirements of their profession. We concluded that they were. Others could speak to you at greater length about everything that preceded and led up to the decision to choose the exam.

Mr. François Choquette: I ask the question, Commissioner, because one of the solutions proposed by some university chancellors is to go back to the Canadian exam rather than continue with the American test. That would help solve all the problems.

However, I wonder about that. Wouldn't there still be more resources in English than in French, even if we went back to a Canadian exam? If we let the market continue on its present path, wouldn't we still wind up, by default, with more exam preparation resources in English, as you mentioned, and wouldn't we still be trying to catch up in providing material in French? Would federal government support be necessary in securing access to those preparatory resources in French?

Ms. Katherine d'Entremont: That's unfortunately not within the jurisdiction of the commissioner's office.

We conducted an investigation under our act and issued our findings. If the exam were prepared in Canada, and there were equal resources in English and French, there wouldn't be a non-compliant situation in New Brunswick or in other provinces. That's what we dare believe.

● (1230)

Mr. François Choquette: We've heard from people from New Brunswick and Ontario who have the same problem. It is a problem across Canada. People have taken the NCLEX-RN test. When these amounts of money are invested, we want all the tools and opportunities we can possibly get.

I know the other associations want to reinstate the former test. Of course, we're also talking about a computer-based vision. Do we want to go back to a test designed on paper, whereas the future is computer-based? Have you determined whether Canada has the capacity to prepare a test that is similar to that of the Americans, that is to say, a computer-based test?

Ms. Katherine d'Entremont: We didn't explore that subject. We simply observed the current situation, which is inconsistent with New Brunswick's act. The decision on what steps should be taken will be the association's responsibility. However, the finding applies to New Brunswick as a result of its act, which governs the associations. The situation is still the same in the other provinces. Consequently, it will be up to the associations to make the decisions, either together or not. As we know, Quebec hasn't adopted this exam. It's hard to believe that, in 2018, we can't establish a national exam that can be done by computer.

Mr. François Choquette: You made recommendations to the Province of New Brunswick, and we saw the premier's reaction. Given the role he plays, can he influence the associations? I'm wondering because the federal government always says it can't really do anything and that the associations are independent. You mentioned your role, which is to make recommendations. Ultimately, however, it's always the professional orders and associations that make the decision. Can the premier play a role in New Brunswick? If not, are the associations completely independent? Can we merely make recommendations to them?

Ms. Katherine d'Entremont: Yes, under section 2 of the Official Languages Act of New Brunswick, the premier is responsible for the administration of the act. He can therefore require the association to take measures to comply with the act.

Mr. François Choquette: Thank you.

The Chair: Now I will turn the floor over to Mr. Lefebvre.

Mr. Paul Lefebvre (Sudbury, Lib.): Thank you, Mr. Chair.

Welcome, Ms. d'Entremont and Mr. Wagg.

You mentioned several times that there should be a standard French-language exam across Canada so that nursing students can take their exam in that language if they wish. Since you've conducted some research and prepared a report, I would like you to tell me, with regard to NCLEX-RN, if a student passes the exam, is he or she also qualified to work in both Canada and the United States?

Mr. Marc Wagg: I don't know whether each state operates in its own way in the United States. On the other hand, I know that the NCLEX-RN is the basic evaluation in the United States.

Mr. Paul Lefebvre: If you look at the history of the exam, you see that it's American and that Canadian students previously had to take two exams: one in Canada and the other in the United States. It was all subsequently standardized so they could work on both sides of the border.

Didn't you look into that?

Ms. Katherine d'Entremont: No, we didn't examine that question. What interested us was whether New Brunswick's Official Languages Act had been contravened.

Mr. Paul Lefebvre: I understand.

Ms. Katherine d'Entremont: You're talking here about a labour force that moves from one province to another.

● (1235)

Mr. Paul Lefebvre: I simply wanted to emphasize that they had moved from a Canadian exam to a North American exam.

Are you familiar with the Consortium national de formation en santé, the CNFS?

Ms. Katherine d'Entremont: Yes.

Mr. Paul Lefebvre: According to my information, that organization has developed a French-language tool to support students on the Internet.

Have you heard of it?

Ms. Katherine d'Entremont: Yes.

Mr. Paul Lefebvre: You mentioned several times that there were no resources or material in French. This tool, which is published on the Internet, is the CNFS's resource. It began offering material and resources to students in 2015-16.

Did you touch on that point in your investigation?

Mr. Marc Wagg: Yes, absolutely. The survey involves approximately 250 questions on those resources, but they didn't at all concern commercial resources from the United States. They were practical questions, not exam simulations. As regards resources from the United States, the questions really reflect the NCLEX-RN. If a response is incorrect, they explain at the end why it's incorrect. The tool from Laurentian University consisted of 250 questions and answers, but it didn't include explanations or details.

Mr. Paul Lefebvre: In your opinion, when Laurentian University and its group began to develop those questions, was that the start of a tool that provided resources, or was it simply inadequate, and was it necessary to start over from scratch?

Mr. Marc Wagg: I'm sorry, I don't know.

Ms. Katherine d'Entremont: We didn't say in our investigation report that there were no resources in French. We are aware that some exist. However, the quality and quantity of those resources, particularly exam simulations, were not at all the same as in English. We're not saying there's a total lack of resources in French. However, the situation is far from fair.

Mr. Paul Lefebvre: Who do you think should finance those materials and resources in French to ensure they are available? The professional associations, the universities, the CNFS?

There's a critical mass on the English side. People purchase these services, and it's profitable. On the French side, there are fewer of us, but we have a right to the same services. However, the absence of a commercial objective clearly makes the situation more difficult.

Who do you think should ensure that material and resources are accessible in French?

Ms. Katherine d'Entremont: Many organizations could make material available. The association makes its decision when it selects an exam for which there are more resources in English than in French. However, our act states, "No person shall be placed at a disadvantage." That's where the problem lies in New Brunswick. We acknowledge in our report that these resources exist. Even though the association doesn't endorse them, the fact nevertheless remains that, when it makes its decision, it can't disregard that, whether it has created the resources or not.

Mr. Paul Lefebvre: That's a good answer to my question. The association therefore has an obligation to ensure they're available. Once it has decided to change exams and adopt the NCLEX-RN, for which preparatory material exists in English, it must ensure that the same resources, or comparable resources, also exist in French. Is that correct?

Ms. Katherine d'Entremont: Yes. That's what the association must do to comply with the act in New Brunswick.

Mr. Paul Lefebvre: You also mentioned Ontario's French Language Services Act, which you may not have looked at in detail. Commissioner Boileux has probably studied the question, but I don't think he has been invited to appear.

Ms. Katherine d'Entremont: I don't know whether professional associations fall under the French Language Services Act in Ontario. That would surprise me.

Mr. Paul Lefebvre: I don't either. I don't think so.

Ms. Katherine d'Entremont: I don't think Mr. Boileau has jurisdiction to deal with that type of complaint in Ontario.

As I said in my presentation, linguistic obligations have applied to New Brunswick's professional associations since July 1st, 2016. That's as a result of the revisions that were made to the provincial Official Languages Act in 2013 and 2015. It's very recent.

● (1240)

Mr. Paul Lefebvre: I think we're going to continue asking questions about Ontario and see whether we can follow the same path New Brunswick has taken.

The Chair: Thank you very much, Mr. Lefebvre.

Ms. Lapointe, you have four minutes.

Ms. Linda Lapointe (Rivière-des-Mille-Îles, Lib.): Thank you, Mr. Chair.

Thanks to the witnesses for being with us. What they're telling us is very interesting.

I'm going to continue on the subject that my colleague just raised.

The professional associations have been subject to these obligations since July 1st, 2016. Do you think the Nurses Association of New Brunswick is the only association that has failed to meet its official language obligations?

Ms. Katherine d'Entremont: That's an excellent question, Ms. Lapointe. What I can tell you is that we have conducted investigations of a number of associations since those obligations were imposed on New Brunswick's professional associations. Next week, we'll be releasing our annual report, in which we will detail the complaints and investigations we have addressed over the last fiscal year.

I've given you a list of professional associations: there are currently 43 of them in New Brunswick. To date, we've looked into complaints concerning half a dozen of them. They aren't limited to certification exams because all services are targeted. Some concern lack of service in person or by mail and others instances of non-compliance on associations' websites.

We conducted the investigation into the exam of the Nurses Association of New Brunswick, and we issued our report. We have received complaints filed against other associations concerning services, but they were not all about exams.

Ms. Linda Lapointe: All right, thank you.

As regards your recommendation that the Nurses Association of New Brunswick report to the Office of the Commissioner on the measures taken to respect subsection 41.1(3) of the province's Official languages Act no later than September 4, 2018, you say you should have received a response last Friday. Do you think the association will be able to comply with your recommendation?

Ms. Katherine d'Entremont: According to the wording of that third recommendation, we're simply asking the association to send us a report.

I don't have jurisdiction to say that it has six months in which to comply. In actual fact, it must comply today, and it was supposed to have been in compliance starting July 1st, 2016.

It's a simple recommendation: we're asking the association to report to us on its progress to date. It's not up to us to fix a period of several months in which to comply because it should already be in compliance. We're therefore asking it to inform us between now and early September where matters stand.

Ms. Linda Lapointe: I'd like to follow on somewhat from what my colleague was saying earlier about exam simulations in French.

What can we in the federal government do? What kind of recommendations could we make to help you ensure the nurses' professional association meets its obligations?

Ms. Katherine d'Entremont: I think you should talk to the representatives of the Nurses Association of New Brunswick to see what their intentions are. I can't tell you on their behalf what they're going to do, what they're thinking of doing, or what they need. Will they continue to use this exam? Will they decide soon to stop using it and adopt another one? Is the association working with the associations of other provinces? Are they developing a Canadian exam? I don't know.

So I encourage you to ask them your questions. We make recommendations designed to ensure compliance with the act. Then it's up to the organizations—the Nurses Association of New Brunswick in this case—to take the necessary measures to comply.

The Chair: Thank you very much, Ms. Lapointe.

Mr. Généreux, you have four minutes.

Mr. Bernard Généreux (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, CPC): Thank you, Mr. Chair.

Some students appeared as witnesses at our last meeting. They eloquently described the problem and how they experienced the problems they encountered. In this entire affair, it's really them I think about because they represent the future of health care in French across Canada.

I'm going to draw an analogy. It's somewhat as though we were in the big kids' playground, but it's really the children who are the most important here. While we argue and try to determine the responsibilities of all the parties, it's unfortunately the children who are suffering.

I learned something earlier. Mr. Arseneault said that a lawsuit had already been filed. Who filed it? Was it students?

I don't know whether you can answer me. If not, perhaps Mr. Arseneault could.

● (1245)

Mr. René Arseneault: As far as I know, an action has been brought by the Société de l'Acadie du Nouveau-Brunswick, the SANB.

Mr. Bernard Généreux: On behalf of the students?

Mr. René Arseneault: Yes.

Mr. Bernard Généreux: Have the individuals who filed the complaint brought the action?

Mr. René Arseneault: It was brought by SANB with the support of a second group, the Fédération des étudiantes et étudiants du Campus universitaire de Moncton, or FÉÉCUM.

Mr. Bernard Généreux: I see.

It's a somewhat absurd situation to some extent. An act is in force. You are the Commissioner of Official Languages of a perfectly, even officially, bilingual province. And yet here is a situation in which you, as commissioner, are forced to issue a report to say that the act has not been complied with.

Ms. Katherine d'Entremont: We see it every day, sir, and on other subjects as well.

Mr. Bernard Généreux: So I understand that, even though the province is officially bilingual, that doesn't necessarily mean all problems are solved. Other situations arise in which the act is not complied with. Is that correct?

Ms. Katherine d'Entremont: Unfortunately yes.

Mr. Bernard Généreux: What legal means do you think the students have with which to advance their case more quickly or significantly? I'm still thinking of the students in this matter.

Ms. Katherine d'Entremont: Apart from the legal remedies, students could increase the association's awareness of the serious nature of the issue. I think our report can provide background here because we've described the situation. The students, future nurses, and the universities, everyone should encourage the association to solve the problem.

Mr. Bernard Généreux: Ms. d'Entremont, I haven't read your report, but earlier you discussed the entire issue of assistance and support. According to testimony we heard this past winter, northern Ontario is also experiencing major problems. Mr. Lefebvre reported this entire situation to us. I think you've seen it. It's the same right across Canada, I imagine.

However, you said that support was the most important factor. How is this factor really more important than the rest.

Ms. Katherine d'Entremont: Because we know that some students train in French and then want to take the exam in French. In the meantime, however, they have to use preparatory material in English. So they take their university training in French, they have access to a range of resources that exist in English but not in French, and then they choose to take the exam in French.

In our investigation report, we published statistics on the number of students who have studied in French but chose to take the exam in English. As we said, this undermines the vitality of the French language, and that shouldn't happen.

The Chair: Thank you very much.

Mr. Clarke, you have four minutes.

Mr. Alupa Clarke: I wanted to introduce a motion, and I'm waiting for copies.

● (1250)

The Chair: Oh, I see.

Mr. Samson, you have four minutes.

Mr. Darrell Samson (Sackville—Preston—Chezzetcook, Lib.): I was going to say it would be miserable and unacceptable for me to miss my four minutes of speaking time for a motion.

Good afternoon, Ms. d'Entremont and Mr. Wagg. It's always a pleasure to see you again. Thank you for your testimony. This subject is so important.

Sometimes I wonder about things. I'm going to launch a trial balloon here because sometimes I think about strategies that go beyond the norm. I'll always remember Judge Arthur J. LeBlanc, who today is the first Acadian Lieutenant-Governor of the province of Nova Scotia. At the time, he decided to retain jurisdiction in a case involving francophone schools. Everyone said he had no right to do so or to require the Government of Nova Scotia to appear before him on subsequent dates to report on its compliance with his order. The provincial government took the case to the Supreme Court of Canada, which held that Judge LeBlanc could indeed retain jurisdiction. Imagine the historic and very important precedent that set.

Sometimes I wonder whether commissioners shouldn't do the same thing. I don't really know whether it would work. However, it takes a bit of clout. We discussed this with our own commissioner.

I understand. You explained your work, your study, and your recommendations very clearly, and many of our questions don't really apply to you.

I dealt with professional associations when I was superintendent of schools in Nova Scotia's provincial Acadian school board. In my experience, only university professors have comparable autonomy and independence. From what I've observed, those associations are not very inclined to acknowledge the importance of linguistic duality.

That used to work, but it doesn't work today because something has happened. I wonder what caused the change. Did you discover it in the course of your investigation?

Ms. Katherine d'Entremont: Are you talking about the association's decision to adopt this exam?

Mr. Darrell Samson: Yes.

Ms. Katherine d'Entremont: No. Our investigation didn't focus on that, Mr. Samson. Thank you for your question, but I invite you to direct it to the association.

I know that there has been some progress and that the association studied the matter four years before choosing that exam. Who was at the table when the decision was made? I don't know, but that wasn't part of our investigation. New Brunswick's Official Languages Act required us to determine whether francophones had been put at a disadvantage.

Mr. Darrell Samson: The answer is clear and precise.

Ms. Katherine d'Entremont: Yes.

Mr. Darrell Samson: Have we invited the association to appear on this matter? I think we have. Did its representatives mention the reason why they chose this exam?

Could the committee researcher clarify that point?

Ms. Lucie Lecomte (Committee Researcher): It was more or less because of the exam's electronic format.

Mr. Darrell Samson: You see how easy it is to avoid official language obligations? In this case, the association wanted to do things electronically: that might cause a problem, but it wasn't serious.

Do you know whether the association asked the New Brunswick government or the federal government to help find a solution?

Ms. Katherine d'Entremont: We don't know what they did. We don't know whether the association has taken measures since we issued our report. It hasn't informed us of the situation.

Mr. Darrell Samson: It's interesting to know it hasn't even answered you.

Ms. d'Entremont, thank you for doing your job while others were not necessarily doing theirs.

The Chair: Thank you, Mr. Samson.

Now will go to Mr. Clarke.

Mr. Alupa Clarke: Thank you, Mr. Chair.

In spite of your important visit, I'm nevertheless going to introduce a motion. This is further to the fact that, in the past year, I've received many groups such as the SANB and the FCFA in my office. I see them constantly. I've also received individuals and representatives of many other community organizations and groups, such as the official language minority communities, the OLMC's. They have told me they're fed up and want us to start focusing on modernizing the Official Languages Act and other matters. Rather than start a broad-based effort like that, we can do something much more focused.

What's really made me want to introduce my motion today is the judgment that was rendered three weeks ago concerning services to francophones in British Columbia. I love the judgment, although I love the outcome less. It states clearly, objectively, and rationally that it's impossible to take positive measures given the way the act is drafted and that the Commissioner of Official Languages of Canada plays nothing more or less than a symbolic role.

Here's the motion I am introducing, colleagues:

> That the Committee study Parts IV, VII and IX of the Official Languages Act in light of the ruling by the Federal Court in *Fédération des francophones de la Colombie-Britannique v Canada (Department of Employment and Social Development)*.

If my motion is adopted, I will introduce an amendment. I would like the motion to be drafted as follows: "That the Committee study in the context of the modernization of the Official Languages Act..."

I would like to know what you think of that. I've met experts in the official languages field in Canada who have told me this would help us get directly to the heart of the problem the OLMCs are currently experiencing with respect to these parts of the act that prevent them, for example, from obtaining favourable judgments. It's on the basis of these issues that we can determine which direction to take in modernizing the act and know what we're doing about the commissioner's future powers.

● (1255)

The Chair: I'd like to mention one thing because there aren't many days left before the House adjourns.

I imagine we can listen to your speeches if they are brief, but I want to reserve some time for what we've planned to do, which is to complete the report today. I wanted to mention that so we could table the report as soon as possible.

Three or four persons have raised their hands. I am going to ask them to be brief. In my view, this is a debate that can take more than the half hour we have left. We must proceed with adoption of the report because we don't know what may happen during the summer. We must table the report as soon as possible.

Mr. Lefebvre, you have the floor.

Mr. Paul Lefebvre: Pardon me, Ms. d'Entremont, thank you for being here, but I must be brief.

We've already discussed the fact that we were going to study the modernization of the Official Languages Act in September. We discussed that three or four months ago, and we even discussed it last year. It's something we have to do. I see no problem in that.

The Chair: Mr. Choquette, you have the floor.

Mr. François Choquette: Going back to the remarks Mr. Lefebvre just made, it's true that we previously decided we would proceed with the review of the Official Languages Act, but we didn't determine how it would be done or what the priorities would be.

The decision rendered concerning the Fédération des francophones de la Colombie-Britannique is extremely serious because it opens a hole, a door, a window, a garage door—you name it—to all kinds of problems. Any organization or department might say that, since it has made a small effort of will by proceeding with consultations—which doesn't even have any connection with obligations—it has done its job and no longer has any responsibility.

Consequently, I will support the motion and add, if Mr. Clarke is in agreement, that we will table our report before the end of 2018. Thus, starting in 2019, we can get answers from the government and begin discussions. The situation is urgent. Of course, we can subsequently conduct a more general analysis of the entire act, which is a job that will extend over several years.

The Chair: Mr. Clark, are you an agreement on the subject of this amendment?

Mr. Alupa Clarke: Yes.

I would also like to add the first amendment that I moved at the start.

The Chair: Mr. Samson, do you have a comment?

Mr. Darrell Samson: Yes.

At the last meeting I attended, we said we would develop an action plan for our committee in September.

Mr. Paul Lefebvre: That's it, an action plan.

Mr. Darrell Samson: Consequently, it's a subject that we could isolate.

We have work to do. No one at this table disagrees with the idea of conducting this study on the Official Languages Act. Even the Prime Minister said it last week. So there's no doubt, and I don't see why it's necessary to vote on a motion when we'll have to establish an action plan for the year and do the work in September.

We all want to achieve an objective. What is that objective? It's to contribute to the thinking of the present government, or of the one that succeeds it, on a new official languages act, which will put us in another action mode for addressing problems. We have identified a lot since 2015.

● (1300)

The Chair: Thank you, Mr. Samson.

Ms. Boucher, do you want to add a comment?

Mrs. Sylvie Boucher: I'm going to say it frankly: we don't want to engage in partisanship here. This is important; this is a very important decision.

As the saying goes, "Words fly away, writings remain." That proverb is very important to me. It's all well and good to say what we want willy-nilly and that we can wait and wait some more. We've been saying for a year that we're going to work on the subject, and we've done nothing yet. If we set the words down in a motion, and if we are all in agreement, then I repeat the proverb, "Words fly away, writings remain."

That's all I wanted to say.

The Chair: Mr. Arseneault, what do you think?

Mr. René Arseneault: I agree on the subject of the motion and everything that's been said around the table. I suggest this: that we develop an action plan in September.

If you draw a parallel with the study the Senate is conducting, you can see that senators have divided the amendment into several components. If this question is to constitute a component in itself, and if it's the first one, then I don't see a problem, but we agree we won't have time to work on it between now and the end of the session.

The Chair: No, we wouldn't have the time.

Mr. René Arseneault: I also suggest that it be the first item on the agenda in September so that it's completed in 2018.

Mrs. Sylvie Boucher: Exactly.

Mr. René Arseneault: Are we all saying the same thing?

The Chair: What do you say, Mr. Clarke?

Mr. Alupa Clarke: I'm going to let Ms. Lapointe speak, and then I can conclude with a vote in favour.

The Chair: Ms. Lapointe, do you want to add a comment?

Ms. Linda Lapointe: To follow on what Mr. Arseneault said, I agree we should address this subject.

Should it be the first subject? In September, when we come back from summer vacation, I think we should hold the first meeting to develop our plan for the fall, and that can be our priority.

With respect to September, we clearly can't decide today, in five minutes, what we're all going to prepare for the fall. I see no problem if we can give this issue priority.

The Chair: Thank you, Ms. Lapointe.

Mr. Clarke, you have the floor.

Mr. Alupa Clarke: Thank you, everyone, for your comments, suggestions, and criticisms.

The argument I've heard most often from you is that we can work on this matter between now and September, that there's no hurry. On the contrary, we are in a hurry. The election will be held in a year and a half, and we started talking about a study on modernization of the act last September. I've been telling you for a year now that we have to do something, that we have to move forward.

I'm the only one here who was gone to see the senators in the other chamber to determine what we might do with them. Seriously, I've been proactive.

Mr. Darrell Samson: I've done it too, and others have as well.

Mr. Alupa Clarke: It's unfortunate, but there's been no result. Every time I talked about it, it didn't look like things were advancing much.

The Chair: All right.

Mr. Alupa Clarke: Mr. Chair, I would like to stop giving my opinion, please.

Personally, I want us to vote on this today because we have to act. If we vote to go ahead on this, there's nothing preventing us from developing an action plan in September.

In any case, everyone I've spoken to until now in the groups we've received in recent months agrees that this precisely targets the current problems instead of falling into something very vague, as is currently the case with the Senate committee.

It's direct and specific, and it responds to a judgment that was rendered not long ago. I think we have to act.

Mrs. Sylvie Boucher: Unlike the Senate, we are free to do what we want.

The Chair: You all have Mr. Clarke's motion before you, to which we would add, "That the Committee table its report by the end of 2018."

Mr. Choquette's amendment is accepted by Mr. Clarke.

Is there a consensus on adoption or not?

Mr. René Arseneault: No, not as far as I'm concerned. For the reasons I've just explained, I won't vote in favour of this motion until the committee resumes in September.

Mrs. Sylvie Boucher: I would like a recorded vote, please.

Mr. Darrell Samson: Me either, I'm not in favour because, once again, we haven't looked at the situation as a whole.

Mr. René Arseneault: Exactly. Let's vote.

The Chair: All right.

All those in favour of the motion?

Mrs. Sylvie Boucher: We request a recorded vote.

The Chair: Madam Clerk, this will be a recorded vote.

(Motion negatived: nays, 5; yeas, 4)

The Chair: I just want to conclude by thanking Ms. d'Entremont for her presentation and for being here with us. It definitely was enlightening. Thanks very much for shedding light on the New Brunswick's nurses file.

Thanks very much to you too, Mr. Wagg.

Ms. Katherine d'Entremont: Thank you for your interest in this matter.

Mr. Marc Wagg: Thank you.

The Chair: We will suspend for a few minutes.

[Proceedings continue in camera]

Published under the authority of the Speaker of the House of Commons

SPEAKER'S PERMISSION

The proceedings of the House of Commons and its Committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its Committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the House of Commons website at the following address: http://www.ourcommons.ca

Publié en conformité de l'autorité du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante : http://www.noscommunes.ca